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U.S. DISTRICT COURT  
SAN JUAN, P.R.  
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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO

JAIME SANTIAGO -ACOSTA, et al.,

Plaintiff

v.

CIVIL NO. 98-2328 (JAG)

LUIS A. OLIVER-CANABAL, et al.,

Defendant

REPORT AND RECOMMENDATION

MOTION

RECOMMENDATION

Date Filed: April 9, 1999

See Ruling as to Docket No. 32.

Title: Motion to Dismiss and  
Supporting Memorandum of  
Law

Docket No.: 9

☐ Plffs ☒ Defs ☐ Other

MOTION

RECOMMENDATION

Date Filed: June 28, 1999

See Ruling as to Docket No. 32.

Title: Motion in Opposition to  
Dismissal

Docket No.: 14

☒ Plffs ☐ Defs ☐ Other

9

24

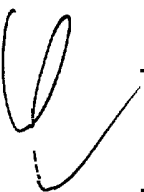
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Case No. 98-2328 (JAG)

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MOTION	RECOMMENDATION
<p>Date Filed: January 25, 2002</p> <p>Title: Supplement to Motion to Dismiss</p> <p>Docket No.: 32</p> <p><input type="checkbox"/> Plffs <input checked="" type="checkbox"/> Defs <input type="checkbox"/> Other</p>	<p>The Court <b>RECOMMENDS</b> that the Complaint be dismissed in its entirety pursuant to Fed. R. Civ. P. 12(b)(6). In the complaint, plaintiff alleges that he was not recruited as a municipal guard because of his affiliation to the New Progressive Party, in violation of 42 U.S.C. § 1983. Plaintiff, however, admits at ¶ 10 of the Complaint that at the time of the event in question he was thirty nine (39) years of age. This disqualifies <i>per se</i> the plaintiff from applying for the position of municipal guard. <u>See Municipality of Lares Ordinances (Exhibits to defendants' Motion in Compliance with this Court's Order (Docket No. 47))</u>. Thus, notwithstanding the existence of any political animus on behalf of defendants, the employment action of not hiring plaintiff would have been taken. Consequently, the plaintiff lacks a cause of action. <u>See Mt. Healthy City School Dist. v. Doyle</u>, 429 U. S. 274, 287 (1977); <u>Nethersole v. Bulger</u>, ___ F. 3d ___, 2002 WL 531125 * 3 (1<sup>st</sup> Cir. 2002).</p>



MOTION	RECOMMENDATION
<p>Date Filed: September 5, 2002</p> <p>Title: Motion to Join Motion to Dismiss</p> <p>Docket No.: 33</p> <p><input type="checkbox"/> Plffs <input checked="" type="checkbox"/> Defs <input type="checkbox"/> Other</p>	<p><b>GRANTED.</b> <u>See</u> Ruling as to Docket No. 32</p>

MOTION	RECOMMENDATION
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Case No. 98-2328 (JAG)

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Date Filed: March 11, 2002

See Ruling as to Docket No. 32.

Title: Motion in Opposition to  
Supplement to Motion to  
Dismiss

Docket No.: 39

☒ Plffs   ☐ Defs   ☐ Other

Under the provisions of Rule 510.2, Local Rules, District of Puerto Rico, any party who objects to this report and recommendation must file a written objection thereto with the Clerk of the Court within ten (10) days of the party's receipt of this report and recommendation. The written objections must specifically identify the portion of the recommendation, or report to which objection is made and the basis for such objections. Failure to comply with this rule precludes further appellate review. See Thomas v. Arn, 474 U.S. 140, 155 (1985), reh'g denied, 474 U.S. 1111(1986); Davet v. Maccorone, 973 F.2d 22, 30-31 (1<sup>st</sup> Cir. 1992); Paterson-Leitch v. Massachusetts Elec., 840 F.2d 985 (1<sup>st</sup> Cir. 1988); Borden v. Secretary of Health and Human Servs., 836 F.2d 4, 6 (1<sup>st</sup> Cir. 1987); Scott v. Schweiker, 702 F.2d 13, 14 (1<sup>st</sup> Cir. 1983); United States v. Vega, 678 F.2d 376, 378-79 (1<sup>st</sup> Cir. 1982); Park Motor Mart, Inc. Ford Motor Co., 616 F.2d 603 (1<sup>st</sup> Cir. 1980).

**SO RECOMMENDED.**

Date: April 15, 2002



GUSTAVO A. GELPI  
United States Magistrate Judge